

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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MARLON CASTRO, OCTAVIO RANGEL,  
MARTIN VASQUEZ, ALFREDO MARTINEZ,  
RODOLFO MENDEZ, GERARDO ANGULO, JUAN  
MARTINEZ, JOSE CERVANTES, SERGIO  
SANCHEZ, ISRAEL SANCHEZ, MARTINE PEREZ,  
GUILLERMO MENDOZA, OMAR CASTILLO, and  
AMANDO MARTINEZ, individually and on behalf  
of others similarly situated,

**ECF Case**

**FLSA § 216(b) Collective  
Action**

**FRCP Rule 23 Class  
Action**

**07 CV 4657 (RWS)(DFE)**

**AFFIDAVIT OF  
MICHAEL A. FAILLACE**

SPICE PLACE, INC., SPICE AVE., INC.,  
BANGKOK PALACE II, INC., SPICE CITY, INC.,  
SPICE WEST, INC., KITLEN MANAGEMENT,  
INC., JUTTANA RIMREARTWATE,  
THANADHAM THANEESAENGHSIRI, KARNDA  
VAJIRABANJONG, KEVIN LEATHERS,  
KITTIGRON LIRTPANARUK, YONGYUT  
LIMLEARTVATE, and YUANYONG  
RIMREARTWATE,

*Defendants.*

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STATE OF NEW YORK )  
                       )  
                       ) ss  
COUNTY OF NEW YORK )

MICHAEL A. FAILLACE, being duly sworn, says:

1. I am a member of the bar of this Court and an attorney for plaintiffs.
2. I make this affidavit in support of plaintiffs' motion:
  - (a) to proceed as a collective action pursuant to Section 216(b) of the Fair Labor Standards Act of 1938, 29 U.S.C. § 216(b), and
  - (b) to authorize plaintiffs to post and circulate a notice of pendency and consent to join form to all individuals who are similarly situated in this collective action, and
  - (c) to compel defendants to furnish the names and last known physical addresses of those individuals in the collective action; and
  - (d) for class certification of plaintiffs' claims under the New York Labor Law

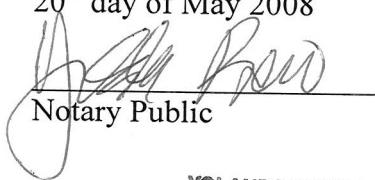
(the "NY class claims.)

3. I have over 25 years' experience as an attorney practicing primarily in employment law, and more recently, predominantly in wage and hour litigation.
4. I spent over 16 years of my career as in-house counsel for I.B.M., having advised my employer on, *inter alia*, numerous labor and employment matters, including multiple wage and hour issues across the country.
5. I serve as an adjunct professor of law for Fordham University School of Law, where I teach a class on employment law.
6. I have authored numerous publications on employment and labor law, including a treatise on the ADA, and a published article on the FLSA.
7. I have litigated over 50 wage and hour cases.
8. Among the cases I have brought, one has been certified as a collective action under FLSA §216(b); (see Cepeda v. Easy Way Parking and Castle Parking Corp., 01 CV 11506 (S.D.N.Y.)) and I am currently seeking certification of FLSA collective actions, and FRCP Rule 23 class actions, in several other matters.
9. Counsel has agreed to advance all costs of this litigation with the proviso that plaintiffs reimburse counsel for all expenses whatever the outcome of the litigation.



Michael A. Faillace (MF-8436)

Sworn to before me this  
20<sup>th</sup> day of May 2008



Notary Public

YOLANDA RIVERO  
Notary Public, State of New York  
No. 02R16061584  
Qualified in Queens County  
Commission Expires July 16, 2014